

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

**VIRGINIA SURETY COMPANY, INC.,
an Illinois Corporation,**

Plaintiff,

v.

Case Number 07-2802-BBD-dkv

**McMURRY CONSTRUCTION COMPANY, INC.,
A Tennessee Corporation,**

Defendant.

STIPULATION OF DISMISSAL WITH PREJUDICE

COME NOW the parties, Plaintiff Virginia Surety Company, Inc., and Defendant McMurry Construction Company, Inc., by and through their counsel of record, and pursuant to Fed. R. Civ. P. 41(a) submit this Stipulation of Dismissal with Prejudice. The parties agree and stipulate that they have reached a compromise and settlement of this cause, so that there remain no issues to be tried or determined by this Court.

The parties request that this Court enter an Order consistent with this Stipulation, and that the original Complaint and Counter-claim be dismissed with prejudice, with each part to bear its own costs and attorney fees.

Respectfully submitted, this the 16th day of January, 2009.

By: /s/C. Barry Ward
GLANKLER BROWN, PLLC
C. Barry Ward (#8447)
1700 One Commerce Square
Memphis, TN 38103
(901) 525-1322

Attorneys for Defendant, McMurry Construction Company, Inc.

By: /s/Kyle M. Wiggins
Kyle M. Wiggins (#18590)
Joseph M. Clark (#23961)
THOMASON, HENDRIX, HARVEY, JOHNSON & MITCHELL
One Commerce Square, Suite 2900
Memphis, Tennessee 38103
(901) 525-8721

Jan Ira Gellis
Jan Ira Gellis, P.C.
137 Fifth Avenue
New York, NY 10010
(212) 460-5757

Attorneys for Plaintiff, Virginia Surety Company, Inc.